

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

RAJENDRA SINGH, M.D.,

Plaintiff,

vs.

ALLEN MEMORIAL HOSPITAL
CORPORATION,

Defendant.

No. 04-CV-2090-LRR

FINAL JURY INSTRUCTIONS

Members of the jury, the written instructions I gave you at the beginning of the trial and the oral instructions I gave you during the trial remain in effect. I now give you some additional instructions.

The instructions I am about to give you, as well as the preliminary instructions given to you at the beginning of the trial, are in writing and will be available to you in the jury room. *All* instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the instructions I gave you at the beginning of the trial are not repeated here.

In considering these instructions, the order in which they are given is not important.

INSTRUCTION NO. 1

Neither in these instructions nor in any ruling, action or remark that I have made during the course of this trial have I intended to give any opinion or suggestion as to what your verdict should be.

INSTRUCTION NO. 2

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it or none of it.

In deciding what testimony to believe, you may consider a witness's intelligence, the opportunity a witness had to see or hear the things testified about, a witness's memory, any motives a witness may have for testifying a certain way, the manner of a witness while testifying, whether a witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection, a lapse of memory, or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 3

In these instructions you are told that your verdict depends on whether you find certain facts have been proven. The burden of proving a fact is upon the party whose claim or defense depends upon that fact. The party who has the burden of proving a fact must prove it by the greater weight of the evidence. To prove something by the greater weight of the evidence is to prove that it is more likely true than not true. It is determined by considering all of the evidence and deciding which evidence is more believable. If, on any issue in the case, the evidence is equally balanced, you cannot find that issue has been proved. The greater weight of the evidence is not necessarily determined by the greater number of witnesses or exhibits a party has presented.

You may have heard of the term “proof beyond a reasonable doubt.” That is a stricter standard which applies in criminal cases. It does not apply in civil cases such as this. You should, therefore, put it out of your minds.

INSTRUCTION NO. 4

There are two types of evidence from which a jury may properly find the truth as to the facts of a case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witnesses to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

INSTRUCTION NO. 5

Certain testimony has been read into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing. Consider that testimony as if it had been given here in court.

INSTRUCTION NO. 6

During this trial, you have heard the word “interrogatory.” An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

INSTRUCTION NO. 7

In this case Defendant Allen Memorial Hospital Corporation is a corporation. The fact that Defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any person.

INSTRUCTION NO. 8

A corporation acts only through its agents or employees and any agent or employee of a corporation may bind the corporation by acts and statements made while acting within the scope of the authority delegated to the agent by the corporation, or within the scope of his/her duties as an employee of the corporation.

INSTRUCTION NO. 9

Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of race, color or national origin. Similarly, under Title 42 of the United States Code, Section 1981, it is unlawful for an employer to make an employment decision, including a decision to terminate an individual's employment, on the basis of race, color or national origin. It is unlawful for an employer to intentionally terminate an employee because of such person's race. Plaintiff in this case, Dr. Rajendra Singh, claims that Defendant, Allen Memorial Hospital Corporation, intentionally discriminated against him by terminating him from the position of Emergency Room Physician. Defendant denies that its decision to terminate Plaintiff was based on race, color or national origin. It is your responsibility to decide whether Plaintiff has proven its claim against Defendant by the greater weight of the evidence.

INSTRUCTION NO. 10

Your verdict must be for Plaintiff and against Defendant if all the following elements have been proved by the greater weight of the evidence:

First, Defendant discharged Plaintiff; and

Second, Plaintiff's race, color or national origin was a motivating factor in Defendant's decision.

If either of the above elements has not been proved by the greater weight of the evidence, your verdict must be for Defendant and you need not proceed further in considering this claim. You may find that Plaintiff's race, color or national origin was a motivating factor in Defendant's decision if it has been proved by the greater weight of the evidence that Defendant's stated reasons for its decision are a pretext to hide race, color or national origin discrimination.

INSTRUCTION NO. 11

As used in these instructions, Plaintiff's race, color or national origin was a "motivating factor," if Plaintiff's race, color or national origin played a part in Defendant's decision to discharge Plaintiff. However, Plaintiff's race, color or national origin need not have been the only reason for Defendant's decision to discharge Plaintiff.

INSTRUCTION NO. 12

If you find in favor of Plaintiff under Instruction No. 10 and if you answer “yes” in response to Question 1 in the Special Interrogatory form, then you must answer the following question in the Special Interrogatory Form: Has Defendant Allen Memorial Hospital Corporation proven by the greater weight of the evidence that it would have made the same decision to discharge Plaintiff Rajendra Singh, M.D., regardless of his race, color or national origin?

INSTRUCTION NO. 13

If you find in favor of Plaintiff under Instruction No. 10 and if you answer “no” in response to Instruction No. 12, then you must award Plaintiff such sum as you find by the greater weight of the evidence will fairly and justly compensate Plaintiff for any damages you find Plaintiff sustained as a direct result of Defendant’s decision to discharge Plaintiff. Plaintiff’s claim for damages includes two distinct types of damages and you must consider them separately.

First, you must determine the amount of any wages and fringe benefits Plaintiff would have earned in his employment with Defendant if he had not been discharged on March 5, 2004, through the date of your verdict, *minus* the amount of earnings and benefits that Plaintiff received from other employment during that time.

Second, you must determine the amount of any other damages sustained by Plaintiff such as emotional distress damages sustained in the past as a result of Defendant’s wrongful actions. Emotional distress may include anxiety, humiliation, loss of self-esteem and loss of enjoyment of life. The amount you assess for emotional distress cannot be measured by any exact or mathematical standard. You must use your sound judgment based upon an impartial consideration of the evidence. Your judgment must not be exercised arbitrarily or out of sympathy or prejudice, for or against the parties. You must enter separate amounts for each type of damages in the verdict form and must not include the same items in more than one category.

INSTRUCTION NO. 14

The fact that I am instructing you on the proper measure of damages should not be considered as an indication that I have any view as to which party is entitled to your verdict in this case. Instructions as to the measure of damages are given only for your guidance in the event that you should find that Plaintiff is entitled to damages in accord with other instructions.

In arriving at an amount of damages, you cannot establish a figure by taking down the estimate of each juror as to damages and agreeing in advance that the average of those estimates shall be your award of damages. Rather, you must use your sound judgment based upon an impartial consideration of the evidence.

Remember, throughout your deliberations, you must not engage in any speculation, guess or conjecture. You must not award damages under these Instructions by way of punishment or through sympathy. Your judgment must not be exercised arbitrarily, or out of sympathy or prejudice, for or against either party.

You must award the full amount of damages that Plaintiff has proved by the greater weight of the evidence.

INSTRUCTION NO. 15

You may not return a verdict for Plaintiff just because you might disagree with Defendant's decision or believe it to be harsh or unreasonable. An employer is entitled to make its own subjective personnel decisions and can discharge an employee for any reason that is not discriminatory.

INSTRUCTION NO. 16

Throughout the trial, you have been permitted to take notes. Your notes should be used only as memory aids, and you should not give your notes precedence over your independent recollection of the evidence.

In any conflict between your notes, a fellow juror's notes, and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was. At the conclusion of your deliberations, your notes should be left in the jury room for destruction.

INSTRUCTION NO. 17

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach an agreement if you can do so without violence to individual judgment, because a verdict must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should, but do not come to a decision simply because other jurors think it is right, or simply to reach a verdict. Remember at all times that you are not partisans. You are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

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INSTRUCTION NO. 17 (cont'd)

Fourth, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. The verdict must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, I am giving you a verdict form. The verdict form is simply the written notice of the decision that you reach in this case. The answers to the verdict form must be the unanimous decisions of the jury. You will take the verdict form to the jury room, and when you have completed your deliberations and each of you has agreed on the answers to the verdict form, your foreperson will fill out the form, and sign and date it. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict. When you have reached your verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

Finally, members of the jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such verdict as accord with the evidence and these instructions.

DATED this _____ day of _____, 2006.

**LINDA R. READE
JUDGE, U.S. DISTRICT COURT**

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SPECIAL INTERROGATORIES

We, the jury, unanimously find the following answers on the special interrogatories submitted to us:

Question 1: **Did Plaintiff Rajendra Singh, M.D., prove by the greater weight of the evidence that his race, color or national origin was a motivating factor in Defendant Allen Memorial Hospital Corporation's decision to discharge him? Please answer "yes" or "no."**

Answer: _____

(If your answer to Question 1 is "yes," please proceed to Question 2 and answer that question. If your answer to Question 1 is "no," do not answer any further questions, sign and date the Verdict Form which follows.).

Question 2: **Has Defendant Allen Memorial Hospital Corporation proven by the greater weight of the evidence that it would have made the same decision to discharge Plaintiff Rajendra Singh, M.D., regardless of his race, color or national origin? Please answer "yes" or "no."**

Answer: _____

(If your answer to Question 2 is "no," please proceed to answer the questions posed in the Verdict Form. If your answer to Question 2 is "yes," do not answer any further questions, sign and date the Verdict Form which follows.).

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VERDICT FORM

We, the jury, unanimously find the following verdict on the questions submitted to us:

Note: Answer Questions A and B below only if you answered “yes” to Question 1 and “no” to Question 2 on the Special Interrogatories form.

Question A: We find Plaintiff Rajendra Singh, M.D.’s wages and fringe benefits (i.e., back pay) through the date of this verdict to be:

Answer: \$_____ (stating the amount or, if none, write the word “none”).

Question B: We find Plaintiff Rajendra Singh, M.D.’s emotional distress damages to be:

Answer: \$_____ (stating the amount or, if none, write the word “none”).

(After answering Question B, please sign and date the Verdict Form).

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VERDICT FORM (cont'd)

Dated this ____ day of _____, 2006.

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror